

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

Rosa Olvera,

Plaintiff(s),

vs.

American Honda Finance Corporation, *et al.*,

Defendant(s).

2:24-cv-00186-MMD-MDC

Order

Pending before the Court is plaintiff Rosa Olvera's application to proceed *in forma pauperis* ("IFP"). ECF No. 4. The court denies her IFP application.

DISCUSSION

I. Legal Standard

Under 28 U.S.C. § 1915(a)(1), a plaintiff may bring a civil action "without prepayment of fees or security thereof" if the plaintiff submits a financial affidavit that demonstrates the plaintiff "is unable to pay such fees or give security therefor." The Ninth Circuit has recognized that "there is no formula set forth by statute, regulation, or case law to determine when someone is poor enough to earn IFP status." *Escobedo v. Applebees*, 787 F.3d 1226, 1235 (9th Cir. 2015). An applicant need not be destitute to qualify for a waiver of costs and fees, but he must demonstrate that because of his poverty he cannot pay those costs and still provide himself with the necessities of life. *Adkins v. E.I DuPont de Nemours & Co.*, 335 U.S. 331, 339 (1948).

The applicant's affidavit must state the facts regarding the individual's poverty "with some particularity, definiteness and certainty." *United States v. McQuade*, 647 F.2d 938, 940 (9th Cir. 1981) (citation omitted). If an individual is unable or unwilling to verify his or her poverty, district courts have the discretion to make a factual inquiry into a plaintiff's financial status and to deny a request to proceed *in forma pauperis*. See, e.g., *Marin v. Hahn*, 271 Fed.Appx. 578 (9th Cir. 2008) (finding that the district

1 court did not abuse its discretion by denying the plaintiff's request to proceed IFP because he "failed to
2 verify his poverty adequately"). "Such affidavit must include a complete statement of the plaintiff's
3 personal assets." *Harper v. San Diego City Admin. Bldg.*, No. 16cv00768 AJB (BLM), 2016 U.S. Dist.
4 LEXIS 192145, at 1 (S.D. Cal. June 9, 2016). Misrepresentation of assets is sufficient grounds in
5 themselves for denying an in forma pauperis application. *Cf. Kennedy v. Huibregtse*, 831 F.3d 441, 443-
6 44 (7th Cir. 2016) (affirming dismissal with prejudice after litigant misrepresented assets on in forma
7 pauperis application).

8 The District of Nevada has adopted three types of IFP applications: a "Prisoner Form" for
9 incarcerated persons and a "Short Form" (AO 240) and "Long Form" (AO 239) for non-incarcerated
10 persons. The Long Form requires more detailed information than the Short Form. The court typically does
11 not order an applicant to submit the Long Form unless the Short Form is inadequate, more information is
12 needed, or it appears that the plaintiff is concealing information about his income for determining whether
13 the applicant qualifies for IFP status. When an applicant is specifically ordered to submit the Long Form,
14 the correct form must be submitted, and the applicant must provide all the information requested in the
15 Long Form so that the court is able to make a fact finding regarding the applicant's financial status. *See*
16 *e.g. Greco v. NYE Cty. Dist. Jude Robert Lane*, No. 215CV01370MMDPAL, 2016 WL 7493981, at 3 (D.
17 Nev. Nov. 9, 2016), report and recommendation adopted sub nom. *Greco v. Lake*, No.
18 215CV001370MMDPAL, 2016 WL 7493963 (D. Nev. Dec. 30, 2016).

19 **II. Analysis**

20 Plaintiff previously completed a short-form IFP but left a majority of the application blank. ECF
21 No. 1. The Court denied her application and ordered her to complete the long-form IFP application. ECF
22 No. 3. The Court warned plaintiff that she could not leave any questions blank. *Id.* Plaintiff filed a new
23 IFP application (ECF No. 4), but her new application is also deficient. To begin, Plaintiff answered all
24 questions with either "\$0" or "N/A".
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1 IA 3-1, the plaintiff must immediately file written notification with the court of any change of address.
2 The notification must include proof of service upon each opposing party's attorney, or upon the opposing
3 party if the party is unrepresented by counsel. Failure to comply with this rule may result in dismissal of
4 the action.

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6 DATED this 15^h day of March 2024.

7 IT IS SO ORDERED.

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10 Maximiliano D. Couvillier III
United States Magistrate Judge
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